

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_  
 2 INTRODUCED BY \_\_\_\_\_  
 3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SCHOOL DISTRICT HEALTH  
 5 INSURANCE LAWS; PROVIDING INCENTIVE FUNDING FOR SCHOOL DISTRICTS THAT PARTICIPATE IN  
 6 A QUALIFYING DISTRICT HEALTH INSURANCE TRUST; REQUIRING THE SUPERINTENDENT OF  
 7 PUBLIC INSTRUCTION TO QUALIFY A DISTRICT HEALTH INSURANCE TRUST THAT MEETS SPECIFIED  
 8 REQUIREMENTS; SPECIFYING PROCESSES IN THE CASE OF DISSOLUTION; PROVIDING A  
 9 STATUTORY APPROPRIATION; PROVIDING FOR A MONEY TRANSFER; PROVIDING DEFINITIONS;  
 10 AMENDING SECTIONS 17-7-502 AND 20-3-331, MCA; AND PROVIDING AN EFFECTIVE DATE."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13  
 14 NEW SECTION. **Section 1. Qualifying district health insurance trusts -- qualifications --**  
 15 **definitions.** (1) The first district health insurance trust that is qualified by the superintendent of public  
 16 instruction under this section must be provided the insurance trust incentive payment under [section 4] to  
 17 stabilize health insurance rates through the capitalization of an operating reserve for the school district  
 18 members of the trust. The superintendent of public instruction may qualify only the first district health insurance  
 19 trust meeting the criteria of this section.

20 (2) A district health insurance trust seeking qualification from the superintendent of public  
 21 instruction under subsection (3) shall apply to the superintendent of public instruction demonstrating that the  
 22 district health insurance trust:

23 (a) has been created by a multidistrict agreement pursuant to 20-3-363 or by an interlocal  
 24 cooperative agreement among participating school districts pursuant to the provisions of Title 20, chapter 9,  
 25 part 7;

26 (b) has a binding contractual agreement among at least 150 districts employing a minimum of  
 27 12,000 employees to participate in and obtain health insurance for its employees through the trust. The  
 28 calculation of these thresholds may include school districts and their employees with current renewal cycles

other than a school fiscal year provided that the districts and employees are purchasing insurance through the trust not later than the earlier of the day after the date of the expiration of their previous policy or January 1 in the first year of the trust's operation.

(c) equally allocates the shared risk of assessments among all members of the trust;

(d) determines plan design, rates, and a premium tier structure in consultation with a certified actuary;

(e) has adopted a required limit on administrative costs of not more than 12% of total costs in the formative documents of the trust. An initial commitment included in the application for qualification is legally binding on the trust in its operations and is subject to the provisions of subsection (5).

(f) maintains full control over claims data for medical and pharmacy benefits;

(g) provides estimates of costs for employees' anticipated medical treatments and procedures and estimates of required cost sharing by members;

(h) is a "self-funded program" within the meaning of that term in 33-1-102(9); and

(i) adopts rates as recommended by its contracted actuary to pay all claims and maintain plan reserves at or above minimum levels of risk-based capital recommended by its actuary.

(3) The superintendent of public instruction shall initially approve and afterward annually qualify the first district health insurance trust that complies with the requirements in subsection (2) for funding under [section 4].

(4) A district health insurance trust qualified by the superintendent of public instruction may, at its option, contract services with a third-party administrator for services needed by the trust, including but not limited to enrollment, claims processing, and access to financial arrangements with providers through provider network agreements via a contract.

(5) Falsely affirming compliance with the provisions of subsection (2) of this section is subject to a charge of false swearing under 45-7-202 and disqualification of the district health insurance trust.

(6) For the purposes of [sections 1 through 4], the following definitions apply:

(a) "Administrative costs" means the overall costs of operating a district health insurance trust except for:

(i) benefits paid;

(ii) additions to reserves as recommended by the district health insurance trust's actuary under subsection (2); and

(iii) the cost of excess insurance or reinsurance for high-cost claims within the trust with an attachment point at which the excess insurance or reinsurance limits apply of not less than \$200,000.

(b) "District" means a public school district as provided in 20-6-101 and 20-6-701.

(c) "District health insurance trust" or "trust" means an arrangement, plan, interlocal agreement, or multidistrict agreement that jointly provides disability insurance as defined in 33-1-207 to its districts' officers, elected officials, or employees through a member-governed, self-funded program.

(d) "Employee" means an individual employed by a district in any capacity, including but not limited to an employee meeting the definition in 2-18-601 and a teacher or principal as defined in 20-1-101 who is regularly scheduled to work at least 20 hours or more a week during the academic year.

**NEW SECTION. Section 2. District withdrawal -- procedures.** (1) After initially joining a district health insurance trust qualified by the superintendent of public instruction under [section 1], a district that has participated in the trust for at least 5 consecutive school fiscal years and provides notice to the district health insurance trust of a plan to withdraw from the trust is authorized to withdraw from the trust. To complete its withdrawal, the district shall notify the trust prior to withdrawing from participation pursuant to the contractual terms of coverage and membership in the district health insurance trust.

(2) A district that has withdrawn from a district health insurance trust under subsection (1):

(a) is ineligible to rejoin the trust for at least 5 full school fiscal years following the year in which the district withdraws; and

(b) is ineligible for receipt of any portion of the net assets or reserve balance of the trust attributable to the distribution of funds under [section 4(3)(b) and (5)] on withdrawal. The portion of the net assets and reserve balance attributable to the distribution of state funds referenced under this subsection (2) must be determined by an actuarial reserve balance analysis conducted by the trust's contracted actuary.

**NEW SECTION. Section 3. Dissolution -- disqualification.** (1) If, after being qualified by the superintendent of public instruction, a district health insurance trust ceases to comply with the conditions under

[section 1(2)] for more than 3 consecutive years, the trust shall immediately notify the superintendent of public instruction and dissolve the trust no later than the end of the next full fiscal year after the date of notification. A district health insurance trust may also voluntarily dissolve.

(2) When dissolving pursuant to this section, the district health insurance trust shall wind up the affairs of the trust in the following order:

(a) impose any assessments on the members of the trust that are calculated by the trust's retained actuary as necessary to pay all liabilities of the trust;

(b) pay all remaining claims, including incurred but not reported claims;

(c) pay all remaining liabilities of the trust;

(d) return any reserve balance remaining from the distribution of state funds to the trust under [section 4(3)(b) and (5)] to the state of Montana, after adjustments under subsections (2)(a) through (2)(c), for deposit in the state general fund. The portion of the reserve balance attributable to the distribution of state funds referenced under this subsection (2)(d) must be determined by an actuarial reserve balance analysis conducted by an actuary chosen by the superintendent of public instruction.

(e) distribute its remaining net assets, if any, proportionately to the member districts of the trust pursuant to the contractual terms of coverage and membership in the trust. A district shall deposit funds distributed under this subsection (2)(e) in an internal service account and spend the funds in accordance with 20-3-330 or 20-3-331.

**NEW SECTION. Section 4. State school health trust operating reserve account -- distribution**

**and uses.** (1) There is a state school health trust operating reserve account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide a one-time-only distribution of incentive funding to the first self-funded district health insurance trust that is qualified by the superintendent of public instruction pursuant to [section 1].

(2) The state school health trust operating reserve account is statutorily appropriated, as provided in 17-7-502, to the office of public instruction for distribution as provided in this section.

(3) If a trust has been qualified by the superintendent of public instruction on or before June 30, 2025, for initial operation beginning July 1, 2025, the superintendent shall, on July 1, 2025, distribute funds in

1 the account as follows:

2 (a) one-third of the money in the account to member districts of the trust divided equally by the  
3 total number of employees of qualifying districts in the last completed school fiscal year. A district receiving  
4 funds shall deposit the funds in its miscellaneous programs fund and use the funds to pay premiums for health  
5 insurance coverage of its employees.

6 (b) two-thirds of the money in the account to the district health insurance trust. The qualifying  
7 district health insurance trust shall use the funds to stabilize health insurance rates through capitalization of an  
8 operating reserve for the district members of the trust.

9 (4) If a trust has not been qualified by June 30, 2025, \$20 million of the account balance must be  
10 transferred to the state general fund.

11 (5) If a trust is qualified between July 1, 2025, and June 30, 2027, the superintendent of public  
12 instruction shall distribute all of the money in the account to the district health insurance trust on July 1 of the  
13 fiscal year immediately following the qualification. The qualifying district health insurance trust shall use the  
14 funds to stabilize health insurance rates through capitalization of an operating reserve for the district members  
15 of the trust.

16 (6) If a trust has not been qualified by June 30, 2027, the account balance must be transferred to  
17 the state general fund.

18

19 **Section 5.** Section 17-7-502, MCA, is amended to read:

20 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
21 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without  
22 the need for a biennial legislative appropriation or budget amendment.

23 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with  
24 both of the following provisions:

25 (a) The law containing the statutory authority must be listed in subsection (3).

26 (b) The law or portion of the law making a statutory appropriation must specifically state that a  
27 statutory appropriation is made as provided in this section.

28 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-

11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; [section 4]; 20-8-107; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.

1 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,  
 2 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-  
 3 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates  
 4 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June  
 5 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to  
 6 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,  
 7 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion  
 8 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004  
 9 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,  
 10 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and  
 11 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

12  
 13 **Section 6.** Section 20-3-331, MCA, is amended to read:

14 **"20-3-331. Purchase of insurance -- self-insurance plan.** (1) ~~The~~ To provide the district, trustees,  
 15 and employees with liability insurance pursuant to 2-9-211 and group health and life insurance pursuant to 2-  
 16 18-702, the trustees of a district may:

17 (a) \_\_\_\_\_ purchase insurance coverage;

18 (b) \_\_\_\_\_ participate in a district health insurance trust as defined in [section 1] for group health  
 19 insurance; or

20 (c) \_\_\_\_\_ establish a self-insurance plan for the district, trustees, and employees for liability as provided  
 21 in 2-9-211 and for group health and life insurance as provided in 2-18-702.

22 (2) \_\_\_\_\_ The trustees shall include the cost of coverage in the general fund budget of the district and as  
 23 authorized for the district transportation program in 20-10-143(1)(d) applicable budget for the fund from which  
 24 the employee's salary is paid.

25 ~~(2)(3)~~ Whenever the trustees of a district establish a self-insurance plan, the trustees shall establish  
 26 an internal service fund to account for the activities of the self-insurance plan."

27  
 28 **NEW SECTION. Section 7. Transfer of funds.** No later than August 15, 2023, there is transferred

1 \$60 million from the general fund to the state school health trust operating reserve account established in  
2 [section 4].

3  
4 NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 4] are intended to be  
5 codified as an integral part of Title 20, chapter 3, part 3, and the provisions of Title 20, chapter 3, part 3, apply  
6 to [sections 1 through 4].

7  
8 NEW SECTION. **Section 9. Effective date.** [This act] is effective July 1, 2023.

9 - END -